

REGULAR SESSION-BOARD OF QUAY COUNTY COMMISSIONERS

February 14, 2011

9:00 a.m.

BE IT REMEMBERED THE HONORABLE BOARD OF QUAY COUNTY COMMISSIONERS met in regular session the 14th day of February, 2011 at 9:00 a.m. in the Commissioners' Room of the Quay County Courthouse, Tucumcari, New Mexico for the purpose of taking care of any business that may come before them.

PRESENT & PRESIDING:

Bill Curry, Chairman
Robert Lopez, Member
Brad Bryant, Member
Ellen L. White, County Clerk
Richard Primrose, County Manager

OTHERS PRESENT:

Larry Moore, Quay County Road Superintendent
Cheryl Simpson, Quay County Manager's Office
Darla Munsell, CDBG Coordinator
Nancy English, Attorney for Ute Lake Ranch
Wade Frost, Quay County Resident
Craig Cosner, Trigg Memorial Hospital Board of Director President
Don Schutte, Attorney for Quay County
Troy Brake, Quay County Resident

Commissioner Bill Curry called the meeting to order. Wade Frost led the Pledge of Allegiance.

A MOTION was made by Robert Lopez, SECONDED by Brad Bryant to approve the minutes from the January 24, 2011 regular commission meeting. MOTION carried with all members voting "aye".

A MOTION was made by Brad Bryant, SECONDED by Robert Lopez to approve the Agenda as presented. MOTION carried with all members voting "aye".

Public Comments: None

Old Business:

County Manager Richard Primrose presented the following items of business:

1. Rescind Resolution No. 2010-2011 No. 14; Objections of LATN Flights over Quay County. Primrose stated that information was received at the NMAC Conference from Col. Kirk Smith of Cannon Air Force Base providing positive information regarding this training exercise. The Commissioners were in agreement that Resolution No. 14 was originally approved due to lack of information and now request it be rescinded. A MOTION was made by Robert Lopez, SECONDED by Brad Bryant to approve rescind the described Resolution 2010-2011 No. 14. MOTION carried with all members voting "aye".
2. Approval of Resolution No. 2010-2011 No. 26 in support of the proposed LATN Flights over Quay County. Commissioner Bryant requested an invitation to address the citizens of Quay County be extended to Col. Kirk Smith of Cannon Air Force Base regarding this issue. A MOTION was made by Robert Lopez, SECONDED by Brad Bryant to approve said Resolution No. 26. MOTION carried with all members voting "aye". A copy of said Resolution is attached and made a part of these minutes.
3. Approval of the First Amendment to Presbyterian Hospital Agreement. Primrose invited Craig Cosner, Trigg Memorial Hospital Board of Directors President to address the Commissioners. Cosner stated the Amendment clarified some language as requested by legal counsel and he stood for any questions. A MOTION was made by Brad Bryant, SECONDED by Robert Lopez to approve the document as presented. MOTION carried with all members voting "aye". A copy of said Amendment is attached and made a part of these minutes.

Russell Anglin, Quay County Sun joined the meeting. Time noted 9:10 a.m.

Chairman Curry recognized the first item on the agenda being Nancy English and Jim Kreutz, Attorneys for Ute Lake Ranch. Curry requested the Counties legal counsel, Don Schutte address the audience and Commissioners prior to proceeding. Schutte stated he has recently entered appearance in reference to litigation issued by Ute Lake Ranch against Quay County. Schutte stated he was surprised to see this item on the agenda because of the pending litigation. He advised the Commission they may not have jurisdiction to take any action on the matter before them today. More importantly, Schutte stated since there is pending litigation and also the threat of additional litigation against the County he believes that Ms. English could address the Commissioners as a member of the public, but advised the Quay County Commission remain silent and that they only address concerns and inquiries during Executive Session.

Chairman Curry asked if the Commissioners had any questions regarding Schutte's statement. There were none.

Nancy English, Attorney for Ute Lake Ranch asked to address the Commission. English stated her intent today was to comply with the request of the Commissioners. She was not present to discuss any litigation and she was not aware of any pending litigation that would arise out of the appeal. English said the appeal is simply a legal question and they have been working with Tim Rose, Assistant District Attorney for the past two months to come up with an amended disclosure statement for Ute Lake Ranch and comply with the Commissioners request. She was not sure why that cannot be addressed outside of litigation. If that issue could be resolved and Ute Lake Ranch could comply with the Commissioners request, the litigation would go away. English also

stated Mr. Schutte has a huge conflict of interest in this matter as he represents Mr. Hamon as well as some of the property owners that are suing Ute Lake Ranch and it is her opinion the Commission would want to avoid appearance of alliance with either party.

Chairman Curry stated just an amended disclosure statement does not comply with the request of the Commission. Secondly Curry stated he has received a statement for Schutte disclosing no conflict of interest therefore the Board of Commissioner will continue under Schutte's advisement. English stated in Schutte's opinion there is not a conflict of interest but that does not prevent the Commissioners from seeing a conflict. English said if the amended disclosure statement does not comply with the request of the Board, she needs to know what does. She stated Tim Rose has told them all they need to do is show proof they can provide telephone service and an amended disclosure statement. Now she said the Board is telling her that is not true. Commissioner Curry said English was trying to weasel him into speaking about the litigation and if she has any further information that can be brought before the Commission, they will be happy to listen under the advisement of their Attorney and discuss it further during Executive Session. English said if the disclosure statement is not what the Commission is requested, can they not tell her exactly what is needed to become compliant. Curry replied that he would not go into detail. Curry then asked English if she had any further information to bring before the Board. English stated she had nothing if she was not allowed to address them.

Don Schutte, Attorney for Quay County stated for clarification, Ms. English was not being denied the right to present information or items, just that the Board would not discuss them. Curry agreed and invited English to present any items of information she chose to. Schutte said Judge Reeb has ordered this litigation to mediation. Curry stated the County had been informed of the mediation. English interjected she would like to proceed with presenting the amended disclosure statement if that was permissible and have the Board respond if possible. English stated she was very confused about how to proceed if they could not have dialog. Chairman Curry stated it was going to be difficult due to the litigation but they welcomed English to proceed with the disclosure statement, however no action could be taken.

Ms. English stated she did not bring Jim Kreutz to the meeting as she wanted to address the Commission alone. English said she believes a lot of things have been misconstrued and a lot of miscommunication has occurred and she thinks if they could just have some open dialog, which cannot happen, things could be resolved. English said it is her understanding the original subdivision was approved with the use of wells. Mr. McAlister, attorney for Ute Lake Ranch provided the Board with a water report and unfortunately it was not caught, but that report was for Twelve Shores that indicated the water was not fit for drinking. They have attached to the disclosure statement two reports, one on lot 15 which is owned by Bruce Hamon and one on lot 37 which is owned by Blane Scenters which indicates the water is fine for drinking with an RO system. The other report from Twelve Shores was not part of the Estate lots. Since the plat was approved for wells, she is not sure anything else can be done at this point. Mr. Freedman has made arrangements for a cell phone receiver or repeater to be installed. The cost has been determined and he is ready to have it installed by no later than 2013. Freedman has a joint venture with CARMA to have telephone lines installed for land lines. English pointed out that the County received letters from land owners that did not even represent 1/3 of the lot owners at Ute Lake Ranch and she believed the Commissioners should be concerned about the remaining

land owner's rights. At this point, Ute Lake Ranch just wants to comply with whatever the Commissioners want them to do and they are prepared to do that without changing the plat which she does not believe can be done. If the plat needs changed and there is a way to change it, if the Board would just give them direction.

Chairman Curry thanked Nancy English for her appearance and stated they would take the amended disclosure statement under advisement through County Manager and consider that document's substance. English said if action on the disclosure statement has to wait till mediation occurs or the hearing which will just be an oral argument before a judge, she believes Mr. Freedman cannot wait that much longer as they have already worked with Tim Rose for 2 months to resolve the issues. This project needs to be moving and that will be an extra expense neither party can endure.

Janie Murray, Quay County Assessor joined the meeting. Time noted 9:25 a.m.

Darla Munsell, CDBG Coordinator presented the following items for approval:

1. Approval of 2010-2011 Resolution #21 CDBG Citizens Participation Plan
2. Approval of 2010-2011 Resolution #22 Residential Anti-Displacement and Relocation Assistance Plan & Certification
3. Approval of 2010-2011 Resolution #23 Amended Quay County Fair Housing

A MOTION was made by Brad Bryant, SECONDED by Robert Lopez to approve Resolutions No. 21, 22, and 23 as described above. MOTION carried with all members voting "aye". Copies of said Resolutions are attached and made a part of these minutes.

Quay County Clerk, Ellen White presented the following items of business:

1. Approval of the 2011 Board of Registration. White stated that due to the past administration of the Secretary of State's Office, the Board of Registration will not have any business to conduct this year as far as the purge process goes. However, New Mexico Statutes required that appointment regardless. White requested the following persons be appointed:

Ann Balch, Republican; Glenda Reid, Democrat; Nelda Burson, Democrat

A MOTION was made by Robert Lopez, SECONDED by Brad Bryant to approve the 2011 Board of Registration. MOTION carried with all members voting "aye".

2. Provided the list of 2011 Quay County Businesses that have purchased their Occupation Licenses and those who were outstanding for informational purposes only.

Larry Moore, Quay County Road Superintendent presented the following report:

1. Requested approval of the 2011 Certified Road Mileage for Quay County and supporting Resolution No. 24. A MOTION was made by Brad Bryant, SECONDED by Robert Lopez to approve said Resolution as presented. MOTION carried with all members voting "aye". A copy of said Resolution is attached and made a part of these minutes.

The 2011 Certified Mileage Report and Map are on file in the Quay County Clerk's Office.

2. The culverts at the Rural 2 Fire Station have been completely installed with the concrete work being completed this week.
3. Snow removal went smoothly with few roads needing attention. Crews are now blading where they can as a result of the moisture. Commissioner Bryant thanked Moore and the crews for their quick response as he and the other Commissioners reported no calls from residents with complaints regarding snow packed roads.

Chairman Curry requested a recess. Time noted 9:45 a.m.

Return to regular session. Time noted 9:55 a.m.

County Manager Richard Primrose presented the following Manager's Report:

1. Requested approval of a Memorandum of Understanding with the Village of San Jon and Quay County for Law Enforcement Services. A MOTION was made by Brad Bryant, SECONDED by Robert Lopez to approve said MOU as presented. MOTION carried with all members voting "aye". A copy of said Memorandum of Understanding is attached and made a part of these minutes.
2. Requested approval of a Memorandum of Understanding with the Village of San Jon and Quay County regarding Regional Emergency Communications Center JPA. A MOTION was made by Brad Bryant, SECONDED by Robert Lopez to approve said MOU as presented. MOTION carried with all members voting "aye". A copy of said Memorandum of Understanding is attached and made a part of these minutes.
3. Presented Resolution No. 25; Authorization of Budgetary Transfer in Hospital Fund 501. A MOTION was made by Robert Lopez, SECONDED by Brad Bryant to approve said Resolution. MOTION carried with all members voting "aye". A copy of said Resolution is attached and made a part of these minutes.
4. The NM Interstate Stream Commission will hold a meeting on February 16, 2011 at 10:30 a.m. in Santa Fe, NM. Commissioner Curry along with Primrose will attend.
5. Primrose and Commissioner Curry will attend the Legislative Dinner for Quay County in Santa Fe on February 15, 2011.
6. Provided the January monthly RPHCA report from the Quay County Family Health Center.
7. A Special Session of the Quay County Board of Commissioners is scheduled for Friday, January 18, 2011 at 8:00 a.m.
8. Trigg Memorial Hospital received some minor damage and flooding in the Emergency Room due to the recent freezing temperatures causing damage to some water lines. Everything has been repaired and back to normal.
9. A water line froze at the Nara Visa fire station causing damage to a computer and loss of some paperwork.
10. The funding from New Mexico Finance authority has been received for District One's Fire Truck.
11. The front steps of the courthouse should be repaired soon as the mat to be installed should arrive soon.
12. Bids for re-plumbing the basement area of the courthouse are being received.

CHECKS WERE REVIEWED AND APPROVED:

OTHER BUSINESS THAT MIGHT ARISE: NONE

A MOTION was made by Robert Lopez, SECONDED by Brad Bryant, to go into Executive Session pursuant to the Open Meetings Act 10-15-1(H) 7 NMSA to discuss pending litigation- DSB Hospitality & Investment, LLC v. Janie Murray, Quay County Assessor and Ute Lake Ranch, Inc. v. Board of County Commissioners, Quay County, New Mexico. MOTION carried with Lopez voting "aye"; Curry voting "aye" and Bryant voting "aye". Time noted 10:15 a.m.

-----EXECUTIVE SESSION-----

Return to regular session. Time noted 11:55 a.m.


A MOTION was made by Brad Bryant, SECONDED by Robert Lopez that only the items listed above were discussed during Executive Session and no action was taken. MOTION carried with Lopez voting "aye"; Curry voting "aye" and Bryant voting "aye".

Chairman Curry announced the Commissioners would be having lunch following the adjournment of this meeting at the Pow Wow Restaurant. The public is welcome to attend.

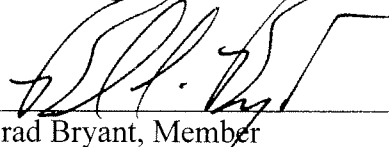
There being no further business, a MOTION was made by Brad Bryant, SECONDED by Robert Lopez to adjourn the regular meeting of the Board of Quay County Commissioners until the next special meeting set for Monday, February 28, 2011 unless sooner called. MOTION carried with all members voting "aye". Time noted 12:05 p.m.

BOARD OF QUAY COUNTY COMMISSIONERS

Bill Curry, Chairman



Robert Lopez, Member



Brad Bryant, Member

ATTEST:



Ellen L. White, County Clerk